



Med-DATA Net™ LLC

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10 Pages

Beverly Flanagan, Supervisor of Petitions 703-305-7202
Commissioner of Patents & Trademarks
Box DAC
Washington, DC, 20231

RE: Petition for Revival.....Abandoned Unintentionally

Application 09/583,338 Inventor: William Reeves

Filing Date: 5/31/2000

Dear Ms. Flanagan,

9/3/03 via fax- 703-308-6916

FAX RECEIVED

SEP 03 2003

PETITIONS OFFICE

I would like to request your aid in clarifying a matter regarding this application 09/583,338 and in expediting my Petition for Revival.....Abandoned Unintentionally.

Attached is Petition for Revival which was filed by registered mail and received by your office on 6/20/03. Also attached is a letter dated 8/19/03 from Steven Meyers, Special Programs Examiner which is "Decision on Petition to withdraw the Holding of Abandonment." I spoke with Steve Myers today and he informed me that his letter has nothing to do with my Petition to Revive filed 6/20/03. Mr. Meyers stated that his dismissal letter of 8/19/03 is mutually exclusive of my 6/20/03 petition and that your office should be processing my 6/20/03 petition to revive as such.

What concerned me was the fact that I called the petition office this AM to get a status of my 6/20/03 Petition to Revive and the clerk stated "oh, that was dismissed on 8/19/03. I tried to explain to her that the two issues had nothing to do with each other, but since she only was going by "information she saw on her palm device" she had no other way of knowing what was going on." It seems like most people in the patent office take information on their palm device as gospel, even though most of the time it is either incorrect or outdated.

Anyway, I would appreciate you sorting this out and ensuring my petition to revive is on track and will be acted on in an expeditious manner. This application is very important to our small business and I would like to ensure the petition will be granted so the patent will go back to the examiner for first office action.

Please call me at 203-288-1588 if you have any questions.

Sincerely,

William Reeves, inventor



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAILED

William Reeves
P.O. Box 23
North Branford, CT 06471

AUG 19 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3800

In re Application of
William F. Reeves
Application No. 09/583,336
Filed: May 31, 2000
For: COMPUTER INSTRUMENTS AND
EMERGENCY MONITORING DEVICES
FOR RETRIEVING AND DISPLAYING
STORED MEDICAL RECORDS FROM
BODILY WORN DEVICES

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in response to applicant's communications filed in the United States Patent and Trademark Office (USPTO), on January 24, 2003, January 27, 2003, February 4, 2003 and June 4, 2003. These communications are being treated as a petition to withdraw the holding of abandonment. The delay in treating this petition is sincerely regretted.

The petition is DISMISSED.

A review of the file record reveals that an Office action was mailed on June 21, 2002. Since a proper response was not filed before the expiration of the six-month statutory period for reply, the application is abandoned, although a Notice of abandonment has not yet been mailed.

A further review of the file record reveals that a petition for an extension of time was filed by facsimile on November 21, 2002. However, that petition was not granted since it did not include payment of the required fee. Another petition for an extension of time, along with a response to the June 21, 2002 Office action, was received on January 29, 2003. However, the fee submitted with the petition was insufficient for a 2 month extension of time and the response was received beyond the 6 month statutory period to respond. As of January 1, 2003, the required fee for a two-month extension of time for a small entity is \$205. Applicant submitted a check for \$200. Furthermore, since the response was not received until January 29, 2003 and there was no Certificate of Mail or other valid evidence to accord the response an earlier filing date, the two month extension of time, even if submitted in the correct amount, would not have made the response timely. The response was received beyond the maximum extendible period of 6 months, the point at which the application became abandoned.

In the communication filed January 24, 2003, applicant argues that the petition for extension of time and payment of the required fee was mailed on about November 17,

2002. Included with the communication is a copy of the canceled check. Applicant argues that the canceled check shows a processing date of November 27, 2002. However, there is no record of the check having been received for the instant application. And, as stated above, even if the \$200. extension of time fee was credited on November 27, 2002, since the response was not received prior to the expiration of the 6 month statutory period (in this case December 23, 2002), no amount of fees would have prevented the application from becoming abandoned.

Since the response of January 29, 2003 did not include any valid evidence to accord a date earlier than the date of receipt in the USPTO, the application has been properly held as abandoned. For applicant's future use, attached to this decision is a guide to assist applicant in obtaining the earliest possible filing date and to protect that date should a response become lost.

Since applicant's petition to withdraw the Holding of Abandonment will not be granted applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37 CFR 1.17(l); and (3) an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the petition fee required by 37

CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under unavoidable standard is \$110. The fee for a petition under the unintentional standard is \$1,300. If applicant has, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive.

The required items should be promptly submitted under a cover letter entitled "Petition to Revive".

Further correspondence with respect to a petition to revive should be addressed as follows:

By mail: Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By Hand: Crystal Plaza 4, Suite 3C23
 2201 South Clark Place
 Arlington, VA 22202

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."


Steven N. Meyers, Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

snm/tpl: 8/13/03

Attachment: Pro Se Guide for Submitting Responses

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

2002 3150 0000 8799 6205

Postage	0.60	UNIT ID: 0518
Certified Fee	2.30	Postmark None
Return Receipt Fee (Endorsement Required)	1.75	Clerk: KQZYKK
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$ 4.65	06/18/03 <i>10:41:10</i>

Send To
Commission of Petitions
State, Ad. No.
or PO Box No.
City, State, Zip
Alexandria, VA

PS Form 3800, June 2002
See Reverse for Instructions

SENDER: COMPLETE THIS SECTION		RECIPIENT: COMPLETE THIS SECTION (CONT'D.)	
<ul style="list-style-type: none"> Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 		A. Signature <input checked="" type="checkbox"/> B. Received by (Printed Name) RECEIVED JUN 30 2003 C. Date of Delivery <input type="checkbox"/> Yes <input type="checkbox"/> No D. Is this item <input type="checkbox"/> YES, <input checked="" type="checkbox"/> NO? 3. Service Options <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. 4. Restricted Delivery? 	
7002 3150 0000 8799 6205			
1. Article Addressed to: <i>Office of Petitions</i> <i>Mail stop Petitions</i> <i>Commission of Petitions</i> <i>PO Box 1450</i> <i>Alexandria, VA 22317-1450</i>		2. Article Number <i>(Transfer from service label)</i>	
PS Form 3811, August 2001 Domestic Return Receipt			

FAX RECEIVED
SEP 03 2003
PETITIONS OFFICE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)		Docket Number (Optional)
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First named Inventor: William Reeves

09/583,336

Application No.:

Filed: 05/31/2000

Art Unit: 3626

AND

Examiner: Alex Kalinowski

Title: Computer Instruments and emergency....

Attention: Office of Petitions
 Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450
 FAX: (703) 308-8918

FAX RECEIVED

SEP 03 2003

PETITIONS OFFICE

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

Small entity fee \$ 650.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____

has been filed previously on _____
 is enclosed herewith.

(Identify type of reply):

B. The issue fee of \$ 650

has been paid previously on _____
 is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

6/17/03

Date

Telephone
Number:

203-288-1588



Signature

William Reeves

Typed or printed name

PO Box 23

Address

North Branford, CT. 06471

Address

Enclosures: Fee Payment Reply Terminal Disclaimer Form Additional sheets containing statements establishing unintentional delay Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-8916.

6/17/03

Date



Signature

William Reeves

Type or printed name of person signing certificate



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Beverley Flanagan
Office of Petitions
Mail Stop Petitions
Commissioner for Patents
Box 1450
Alexandria, VA 22313-1450

Application 09/583,338

Inventor: William Reeves

Date Filed: 5/31/2000

RE: Petition to Revive- Unintentional Delay 37 CFR 1.137 (b)

Dear Ms. Flanagan,

6/17/03

I declare that this petition was personally mailed by me in the US mail on 6/17/03.

Thank you for recently taking the time to advise me on this petition over the telephone. Accordingly I am filing this Petition to Revive based on an Unintentional Delay.

Background

1. Please note that this patent was with examiner Alexander Kalinowski of art unit 3828. The first office action was sent to me by the examiner. I replied to the examiner in detail with a notice of time extension. The examiner claimed I did not get my extension in on time and send my reply and extension to examiner Teri Luu, TC3600, SPRE detailee. Ms. Luu looked over my extension and canceled checks. She advised me by telephone that she was going to declare the application "abandoned" based on me hitting the time extension deadline for response to the first office action.

Therefore, I submit this Petition to Revive Based on Unintentional Delay 1.137 (b).

Petition

1. My full reply to the Office Action has already been filed and is with examiner Luu.
2. I hereby enclose a check for \$650.00 to cover the Petition fee as a small entity.
3. I declare that the entire delay in filing my response to the first office action from the due date of the response to the filing of this petition was unintentional.



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Beverley Flanagan
Office of Petitions
Mail Stop Petitions
Commissioner for Patents
Box 1450
Alexandria, VA 22313-1450

Application 09/583,338

Inventor: William Reeves

Date Filed: 5/31/2000

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PETITIONS OFFICE

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3. I declare that the entire delay in filing my response to the first office action from the due date of the response to the filing of this petition was unintentional.

(cont.)

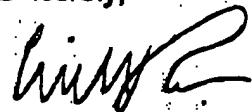
4. Terminal Disclaimer- Not applicable.

Please call me at 203-288-1588 if you have any questions.

Enclosures:

**Petition to revive
Fee check for \$650.00**

Sincerely,



William Reeves, inventor